

REPORT - PLANNING COMMISSION MEETING
September 11, 2003

Project Name and Number: Pacific Commons Vesting Tentative Tract Map 7458 and Preliminary Grading Plan (PLN2003-00298)

Applicant: Catellus Development Corporation

Proposal: To consider Vesting Tentative Tract Map 7485 and a Preliminary Grading Plan to implement the Planned District Major Amendment (approved by Ordinance No. 2507 on July 22, 2003) modifying the approved land use and circulation plans for a portion of the development known as Pacific Commons (P-2000-214) in the Industrial Planning Area.

Recommended Action: Approved, based on findings and subject to conditions.

Location: The Pacific Commons lands under review are generally located west of Interstate 880, south of Auto Mall Parkway, north of the future Curie Street alignment and east of the existing Auto Mall.

Assessor Parcel Number(s): 525-1326-021-00; 525-1326-022-00; 525-1326-023-00; 525-1326-024-00 and 525-1330-018-00

Area: Approximately 118 acres

Owner: Catellus Development Corporation

Agent of Applicant: Jason Johannessen, Catellus Development Corporation



Consultant(s): Kevin Weiss, JMH Weiss Engineering

Environmental Review: An EIR and Supplemental EIR ('SEIR') were previously approved for the Pacific Commons project. An Addendum to the SEIR was prepared and adopted for the Planned District Major Amendment finding the project to be consistent with the original plan and environmental documents. This Vesting Tentative Tract Map and Preliminary Grading Plan implement the Planned District Major Amendment.

Existing General Plan: IR-C-I - Restricted Industrial, Commercial Industrial Overlay

Existing Zoning: P-2000-214, Planned District, as amended by PLN2003-00166

Existing Land Use: Vacant

Public Hearing Notice: Public hearing notification is applicable. A total of 189 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Auto Mall Parkway, Auto Mall Circle, Boyce Road, Brandin Court, Christy Street, Cushing Parkway, Nobel Drive and Boscell Road.  notices to owners and occupants were mailed on August 29, 2003. A Public Hearing Notice was delivered to  Argus on August 25, 2003 to be published by August 28, 2003.

Executive Summary: The project applicant proposes a Vesting Tentative Tract Map 7458 and a Preliminary Grading Plan to subdivide a 118-acre site into 39 parcels within the Pacific Commons development. Vesting Tentative Tract Map 7458 and the Preliminary Grading Plan will implement the approved modifications to the circulation and parcelization within Pacific Commons as approved by the 2003 Planned District Major Retail Amendment. Staff is recommending approval of the Vesting Tentative Tract Map 7458 and the Preliminary Grading Plan, subject to the findings and conditions attached to this report.

Background and Previous Actions: On May 9, 2000, the City Council adopted the Design Guidelines and Development Standards for the Pacific Commons Planned District (P-2000-214).

On July 23, 2002, the City Council approved a Planned District Major Amendment (PLN2002-00263) to modify the approved land use and circulation plans for Pacific Commons (P-2000-214). Finally, on July 22, 2003, Council approved a Planned District Major Amendment for the Pacific Commons Development (P-2000-214), which in effected rescinded the approval granted in 2002 and allows for a retail development of up to 870,000 square feet.

Project Description: This proposed Vesting Tentative Tract Map 7458 and Preliminary Grading Plan implement the land use and circulation plan changes of the recently approved Planned District Major Amendment. Vesting Tentative Tract Map 7458 proposes 39 lots. The smallest lot is approximately 0.20 acres and the largest approximately 8.00 acres in size. Access to the project will be gained via the surrounding roadway network, which will be comprised of Christy Street, Curie Street, Pacific Commons Boulevard, Auto Mall Parkway, and Boscell Road. **Pacific Commons Boulevard will remain as the project's focal point, with a 900-foot commons area in the center of the street and up to 12 story buildings along either side of the street.** At the time of final map submittal for specified groupings of lots, site plans for that grouping of lots will be reviewed by staff to ensure that the proposed final map is consistent with the intent of the planned district conditions and the Development Standards and Guidelines. Final map submittals will also trigger a determination by the City Engineer as to the required improvements needed to serve and access the lots proposed by the final map.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Restricted Industrial with a Commercial-Industrial Overlay. The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed Vesting Tentative Tract Map 7458 and Preliminary Grading Plan implement an approved Planned District Major Amendment which allows for the development of a community shopping center, major retail area, office, research and development, and auto dealerships. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Fundamental Goal 8 – A diversity of residential, recreational, cultural, employment and shopping opportunities.

Fundamental Goal 9 – A large diversified industrial and commercial base to meet the employment needs of the City's present and future workforce.

Land Use Policy 3.2 – The General Plan allows warehouse retail and large-scale regional retail uses on sites with convenient freeway access and where the proposed use is compatible with the purpose of the industrial area.

Land Use Policy 3.3 – The General Plan allows for commercial uses providing necessary services and large-scale regional retail in industrially designated areas.

- **Zoning Regulations:** The zoning designation for the subject property is Planned District, P-2000-214. The Planned District provisions were recently modified by a Planned District Major Amendment, which allows for the development of a community shopping center, major retail area, research and development space and the expansion of the auto mall. The Planned District Major Amendment also outlined the discretionary review process for the development of the projects within the new Major Retail District.

This Vesting Tentative Tract Map 7458 and Preliminary Grading Plan implement those approved modifications to the circulation and parcelization within Pacific Commons, as approved by the Planned District Major Amendment.

- **Circulation/Access Analysis:** The applicant will submit the proposed internal circulation and street geometry with the first final map for each planning/sub-area, subject to the review and approval by the City Engineer. The internal circulation plan will show the connections to the internal driveways in the planning/sub-areas and how the planning/sub-areas will be provided access to the surrounding street network. The applicant will be required to

install the public improvements in phases to run concurrently with the development of each planning/sub-area as proposed through the Planned District Major Amendment and Vesting Tentative Tract Map 7458. The attached Conditions of Approval outline the requirement and timing of certain infrastructure improvements. Any major revisions to the approved alignment of the major internal streets (i.e. Christy Street, Curie Street, Boscell Road and Pacific Commons Boulevard) will be referred to the Planning Commission and City Council for review and approval. Within Pacific Commons, the general circulation plan is addressed through a hierarchy of streets intended to promote travel efficiency for vehicles, pedestrians and bicycles. The proposed street system includes major roads, secondary streets, service roads, sidewalks, pedestrian linkages and bike lanes laid out in grid-like patterns.

The following lists the requirements for the major street segments for the Major Retail District:

A. Auto Mall Parkway.

1. Auto Mall Parkway east of Christy Street has been improved with Caltrans' interchange project. There are four lanes provided for the eastbound traffic. The applicant will dedicate an additional 12 feet of right-of-way to provide a fifth lane for the eastbound Auto Mall Parkway on-ramp to southbound I-880 with the development of Parcels 18 through 23. The additional lane would be installed, as demand requires based on traffic analysis provided by the applicant's traffic consultant and subject to the review and approval of the City Engineer.
2. The applicant will dedicate additional right-of-way across the site's frontage between Christy Street and Boscell Road to provide 4 lanes for the eastbound traffic at this section of Auto Mall Parkway. The additional lane is a traffic mitigation requirement of the EIR for the applicant's development. The final roadway geometric will be a 7-lane, divided roadway with bike lanes in both directions. The roadway will be provided with a 20-foot sidewalk and landscaped area at the northerly side and a 10-foot public utility easement (PUE) and a 20 foot-landscape and trail easement at the southerly side.
3. The applicant will dedicate the required right-of-way to provide for a dual left turn lane for the westbound Auto Mall Parkway traffic making a left turn to Boscell Road into the development. The additional lane is a traffic mitigation requirement of the EIR for the applicant's development.
4. The applicant will provide 3 lanes for the eastbound traffic on Auto Mall Parkway between Boscell Road and Cushing Parkway/Boyce Road. The final roadway geometric will be a 7 lane-divided roadway with bike lanes in both directions. The roadway will be provided with a 20-foot sidewalk and landscaped area at the northerly side and a 10-foot PUE and a 20 foot- landscape and trail easement at the southerly side.
5. The applicant will provide 2 lanes for the eastbound traffic at Auto Mall Parkway between Boyce Road and the existing Nobel Drive. The final roadway geometric will be a 4 lane-divided roadway with bike lanes in both directions.

B. Christy Street.

1. The applicant is designating the northeast corner of the development as a Major Retail Shopping Center. The area also marks the northern gateway to the development. The access to this area is from Christy Street. Christy Street south of Auto Mall Parkway is a public street which will continue to provide access to the existing industrial development located at Brandin Court (Tract 4597) and terminates at the existing Christy Concrete industrial site (APN's 525-1325-6-7 and 525-1325-6-20). This southern portion of Christy Street is a minor industrial street.
2. The applicant is proposing to widen Christy Street between Auto Mall Parkway and Curie Street to a six lane divided roadway with a multi use path. Between Curie Street and Brandin Court, the roadway will transition to 4 lanes, with a two-way turn lane. Bike lanes, sidewalk and landscape and trail easements will be provided on both sides.

C. Boscell Road.

Boscell Road will be extended into the proposed development as a major secondary road. Boscell Road will provide the connection between Auto Mall Parkway and the Cushing Parkway Extension. Boscell Road will be provided with a minimum right-of-way of 98 feet and a cross section consisting of 4 lanes, and a median or dual left turn lane and 5-foot bike lanes on each side.

D. Pacific Commons Boulevard.

Pacific Commons Boulevard will be extended to Automall Parkway and will serve as a major entrance to Planning Areas 2 and 3. Pacific Commons Boulevard through this section will be a minimum right-of-way of 63 feet and a cross section consisting of 2 lanes, a minimum 2' median, a left turn lane and bike lanes on each side.

E. Curie Street.

Curie Street will be a minor collector street with a 72-foot right-of-way and a curb-to-curb width of 48 feet, with two travel lanes, a two-way left turn-lane, a 5 foot-bike lane and a 13 foot-sidewalk and landscape area. Parking is proposed on the south side of Curie Street between Christy Street and Pacific Commons Boulevard, similar to the previously proposed plan for the eastern leg of Pacific Commons Boulevard.

F. Internal Circulation

The existing Boyce Road north of Auto Mall Parkway will be modified by relocating the median and restriping to provide for a roadway cross-section consisting of 3 lanes, two separate right-turn and left- turn lanes, and 5-foot bike lanes at both sides of the street.

The applicant will dedicate the full right-of-way for all the proposed streets and provide complete street improvements across developed frontage, as determined by the City Engineer. All streets must be provided with a minimum curb to curb width of 20 feet to provide adequate clearance for the City's emergency vehicles.

Grading & Drainage: The topography of the approximately 118-acre site is characterized as a low-lying flat terrain. The lay of the land slopes from the northeasterly limits adjacent to Auto Mall Parkway and Christy Street at 22 feet above mean sea level (AMSL), to the southwesterly limits at elevation 15 feet AMSL. The proposed grades for the site ranges between 16 feet AMSL (above mean sea level) and 21 feet AMSL. The applicant's estimate for the earthwork quantities for the preliminary grading plan is 42,000 cubic yards (c.y.) and 132,000 c.y. of cut and fill, respectively. There is approximately 103,200 c.y. of import needed. Material will be generated on other areas of the Pacific Commons Development or import will be brought in. A grading and haul route permit will be needed for the import. No offhaul of materials is proposed.

The applicant will utilize the existing Alameda County Flood Control and Water Conservation District's (District) Zone 6, Line N-1 flood control channel located at the southerly limits of Pacific Commons as was proposed for Vesting Tentative Tract 7200. The Master Storm Drainage plan submitted by the developer will contain the site's storm runoff within the development and will be conveyed to a Stormwater Treatment Area approximately 15 acres in size prior to being released to the District's Zone 6, Line N-1 drainage facility. In addition to the Stormwater Treatment Area the applicant is also proposing several storm water quality measures for Post Development BMP's (Best Management Practices) in response to the City's Clean Water Program and Regional Water Quality Control Boards permit. The features include the provision for grassy swales adjacent to parking lots, storm drain inlet filters, and water treatment ponds or wet ponds for the larger campus-type development sites and major retail center. The master drainage plan showing the major storm drain lines and tributaries including the hydrology analysis will be subject to the review and approval by the District and the City Engineer with the first final map for the proposed development.

The applicant is proposing a positive overland drainage release for the developed portion of the site to convey storm water in the event the capacity of the underground system is exceeded. The positive overland release for the Major Retail District will run along Curie Street and Boscell Road to Bunche Drive. From Bunche Drive the positive overland release will continue its proposed route on Cushing Parkway between Lots 72 and 73 of VTM 7200 and will channel the storm runoff to the water treatment pond located in Parcel E of VTM 7200. From the treatment pond excess storm runoff would eventually drain into the railroad right-of-way abutting the westerly limits of Pacific Commons.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than five acres of land. The NOI is to include the development and implementation of a storm water pollution prevention plan emphasizing best management practices. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board and the requirements of the Resource Agency permits for Pacific Commons.

Applicable Fees:

- **Development Impact Fees:** This project will be subject to Development Impact Fees as outlined in the Development Agreement. These fees may include fees for fire protection, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Underground Existing Overhead Utility Lines: The applicant will underground all existing overhead utility lines in accordance with the City's utility underground ordinance.

Environmental Analysis: An EIR and Supplemental EIR were previously approved for the Pacific Commons project. An Addendum was adopted for the Planned District Major Amendment finding the project to be consistent with the original plan and environmental documents. The Vesting Tentative Tract Map 7458 and Preliminary Grading Plan implement the Planned District Major Amendment. No further environmental review is required.

Response from Agencies and Organizations: No responses have been received.

Enclosures:

- Exhibit "S" Vesting Tentative Tract Map 7458, Preliminary Grading Plan, Proposed Storm Drainage Master Plan, Proposed Sewer Master Plan, Proposed Water Master Plan, Street Striping Master Plan, Post-Construction Requirements, Overland Release Plan
- Exhibit "T" Findings and Conditions of Approval for Vesting Tentative Tract Map 7458
- Exhibit "U" Findings and Conditions of Approval for Preliminary Grading Plan
- Exhibit "V" Construction Water Quality and Protection Plan Provisions
- Informational: Addendum to the Supplemental EIR for Pacific Commons, adopted by the City Council on July 22, 2003

Exhibits:

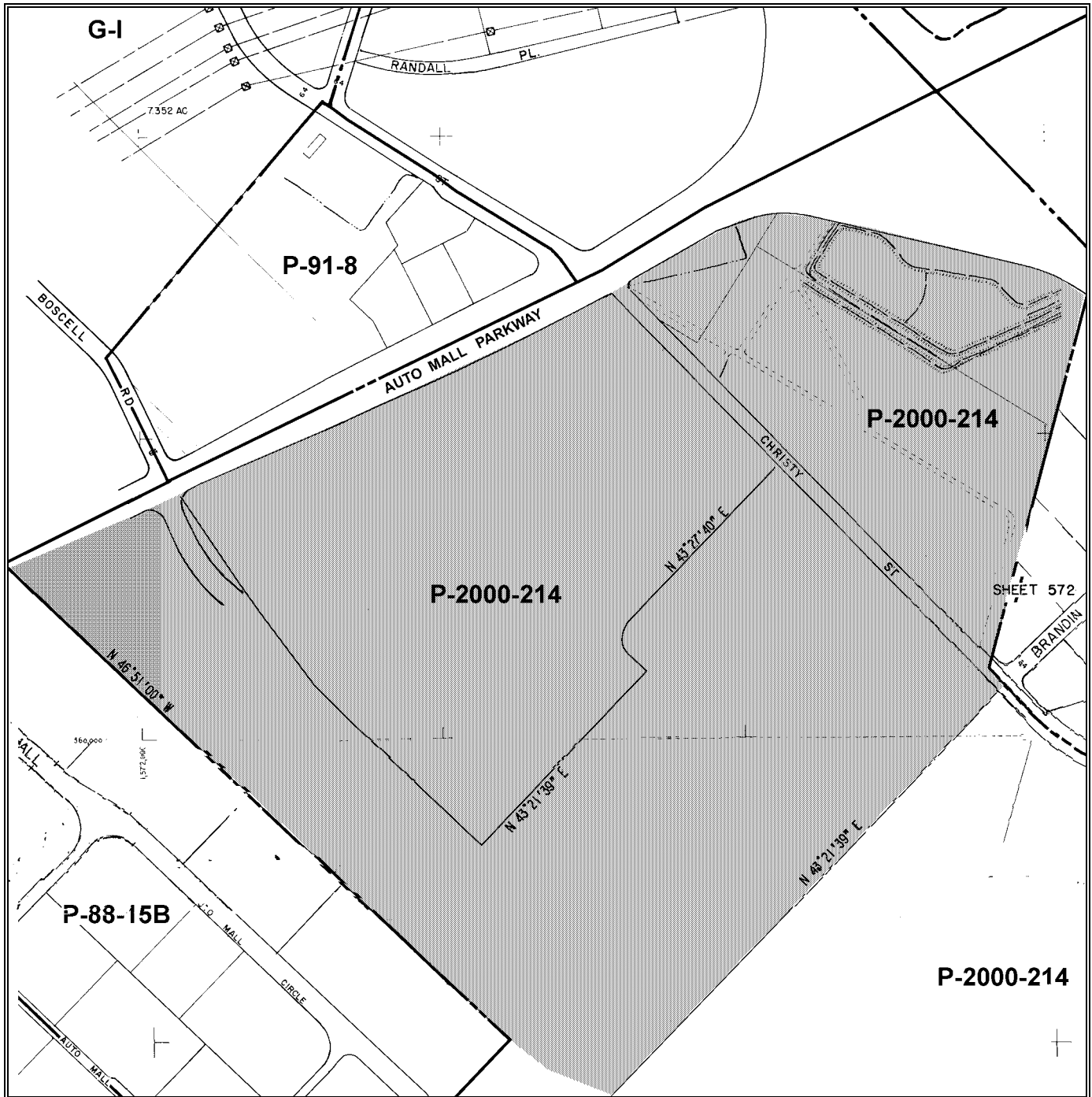
- Exhibit "S" Vesting Tentative Tract Map 7458, Preliminary Grading Plan, Proposed Storm Drainage Master Plan, Proposed Sewer Master Plan, Proposed Water Master Plan, Street Striping Master Plan, Post-Construction Requirements, Overland Release Plan
- Exhibit "T" Findings and Conditions of Approval for Vesting Tentative Tract Map 7458
- Exhibit "U" Findings and Conditions of Approval for Preliminary Grading Plan
- Exhibit "V" Construction Water Quality and Protection Plan Provisions

- Informational: Addendum to the Supplemental EIR for Pacific Commons, adopted by the City Council on July 22, 2003

Recommended Actions:

1. Hold public hearing.
2. Find that the EIR and Supplemental EIR previously approved for the Pacific Commons project, and the Addendum adopted for the Planned District Major Amendment are consistent with this Vesting Tentative Tract Map and Preliminary Grading Plan which implements the Planned District Major Amendment and that no further environmental review is required.
3. Find PLN2003-00298 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designation, goals and policies set forth in the General Plan as enumerated within the staff report.
4. Approve PLN2003-00298 Vesting Tentative Tract Map 7458 and Preliminary Grading Plan, as shown on exhibit "S", subject to findings and conditions on Exhibit "T" (Vesting Tentative Tract Map), Exhibit "U" (Preliminary Grading Plan) and Exhibit "V" (Construction Water Quality and Protection Plan Provisions).

Existing Zoning
Shaded Area represents the Project Area



Existing General Plan

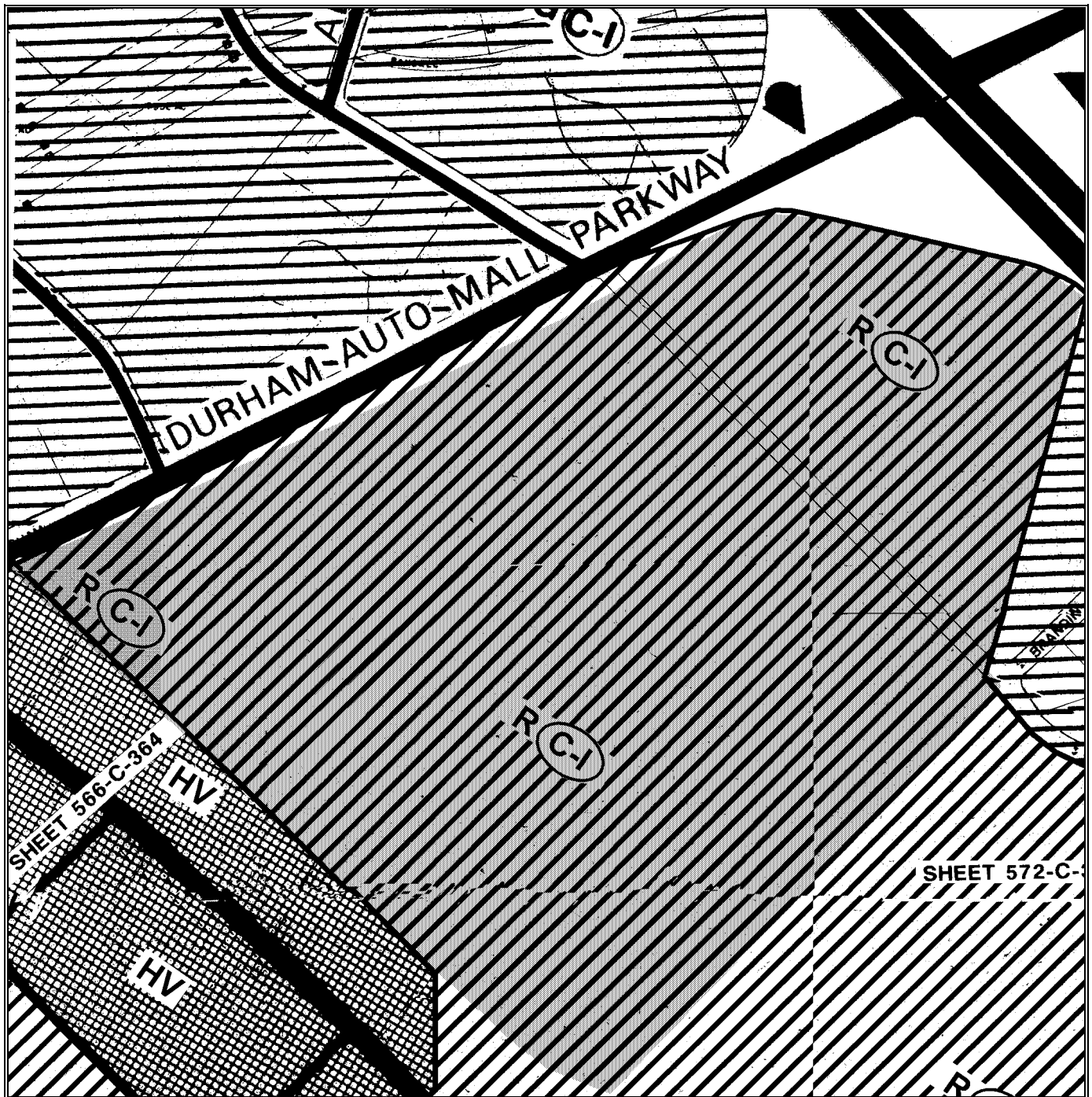


EXHIBIT "T"
Findings and Conditions of Approval for PLN2003-00298
VESTING TENTATIVE TRACT MAP 7458 (VTTM-7458)

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated September 11, 2003, incorporated hereby.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance.
2. The site's suitability for the type and proposed intensity of development has been analyzed in the Draft Supplemental EIR--86-85 dated May 1, 1996 (State Clearinghouse #8721715) and Final Supplemental EIR 86-85 dated July 26, 1996 (State Clearinghouse #'s 8721715 and 96052016 and the Draft Supplemental EIR 86-85, dated January 31, 2000 and Final Supplemental EIR dated April 14, 2000 (SCH # 1996052016) (collectively the EIR) and in the staff report to the Planning Commission dated April 27, 2000. The EIR concluded the site to be appropriate for development as proposed based upon the implementation of identified mitigation measures set forth in the entitlements for the project. An addendum to the EIR was prepared and adopted (July 22, 2003) for the Planned District Major Amendment finding that the EIR sufficiently analyzed the impacts of the Planned District Major Amendment. This Vesting Tentative Tract Map and Preliminary Grading Plan implement the Planned District Major Amendment.
3. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plans since the proposed lot configuration is in conformance with the **Restricted Industrial and Commercial-Industrial Overlay, IR(C-I)** requirements of the General Plan.
4. The site is physically suitable for the type and proposed density of the development since the proposed lot configuration is in conformance with the **Planned District, P-2000-214 and PLN2003-00166 Major Amendment** requirements.
5. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially or unavoidably injure fish or wildlife or their habitat, because the subdivision design incorporates mitigation measures described in the EIR which will reduce identified impacts to a non-significant level. Cumulative traffic and circulation impacts cannot be totally mitigated, and were therefore identified as unavoidable impacts that were the subject of a Statement of Overriding Considerations.
6. The design of the subdivision, and the type of improvements are not likely to cause serious public health problems because the EIR has not identified health risks associated with the subdivision of the project site. At this time, other than the Major Retail Use, the other specific future uses of the site are not known. Any proposed use of hazardous materials within the project boundaries must receive a Hazardous Materials Storage Permit as set forth in the Fremont Municipal Code.
7. The design of the subdivision and the type of improvements proposed with this project will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision, because the easements are incorporated into the design of the subdivision. Acquisition of any new easements is required prior to final map approval.
8. Except as otherwise provided by the 2000 Amended and Restated Development Agreement entered into by the City and the applicant/developer for this project, all on-site public improvements or facilities required as a part of this

approval are directly attributable to the proposed development, and are required for reasons related to public health, safety and welfare.

CONDITIONS:

Notes:

1. An asterisk (*) has been included for those conditions of approval required as mitigation measures set forth in the EIR. Facts in Support of Findings and Statements of Overriding Considerations as set forth in Exhibit "I" of the report on the General Plan Amendment, Planned District and Amended and Restated Development Agreement (City File Number PLN 2000-214) considered by the Planning Commission for this Project on April 27, 2000, were based upon having the stated mitigation measures included as conditions of approval for this Project.
2. Any capitalized terms in the following conditions not otherwise defined shall have the meaning defined in the 2000 Amended and Restated Development Agreement, regardless of whether it is in effect.

General Issues

- A-1 The project shall conform with Exhibit "S" (Vesting Tentative Map 7458, Preliminary Grading Plan, Post Construction Storm Water Pollution Prevention Controls, Preliminary Master Storm Drainage Plan, Preliminary Sewer Master Plan, Preliminary Water Master Plan, Street Striping Master Plan, and Overland Drainage Release Plan), attached hereto and made a part hereof and all conditions of approval set forth herein.
- A-2 PLN2003-00298 shall be subject to all the Conditions of Approval of PLN2000-00214, PLN2003-00166, PLN2003-00015, and any minor amendments thereto, that are generally applicable to development within Pacific Commons. Without limiting the generality of the foregoing, Applicant must comply with all of the following:
- Resource Agency Requirements
 - Perimeter Trail/Bay Trail Requirements
 - Transportation Demand Management Requirements
- A-3 The project shall conform with the Development Agreement, Exhibit "S" and all the conditions of approval set forth in these Conditions of Approval for Vesting Tentative Tract Map 7458 (collectively referred to as the Tract Map 7458 Conditions).
- A-4 Building construction plans shall be submitted to the Development Organization for review and approval to ensure conformance with the relevant codes, policies, and other applicable requirements of the Fremont Municipal Code, as well as all the Tract Map 7458 Conditions. Streamlining procedures contained in the Planned District's Standards and Guidelines document for this project shall be utilized in the Development Organization's Site Plan and Architectural approval process.
- A-5 The applicant shall comply with the City's Hazardous Materials Ordinance.
- A-6 Prior to the approval of each final map for this project, the applicant shall have obtained demolition permits for the removal of any structures currently on the site and shall have completed such demolition.
- A-7 As long as the Development Agreement is in effect, the Development Impact Fees shall be paid in the manner specified in the Development Agreement. If the Development Agreement is terminated under Subsection 8.7(b) of that document, the fees shall be imposed under the applicable provisions of the State Subdivision Map Act, based on the 1996 vesting date for the previous Vesting Tentative Tract Map. If the Development Agreement is terminated under Subsection 8.7(a) or Subsection 8.7(c) of the Development Agreement, or expires by its own terms, the Development Impact Fees shall be paid in the manner that would have applied if the Development Agreement had not terminated.

- A-8 The applicant/developer shall retain a Native American Observer in the event any archaeological materials and/or human remains are discovered during the construction phase of the proposed project. All personnel involved in ground clearing, grading or trenching associated with the project shall be alerted to the possibility of discovery of archaeological materials and instructed to stop work in the immediate area of any find. Once work has been stopped, it will be the responsibility of the applicant to retain a qualified archaeologist, subject to the approval of the City of Fremont, to inspect the find and make necessary plans for the evaluation and mitigation of impacts to any materials still in the area slated for land alteration.

In the event any human remains are discovered, it will be the responsibility of the archaeologist who inspects the find to make a determination of their origin. If aboriginal, the County Coroner shall be notified and instructed to contact the Native American Heritage Commission. The Commission is required to notify a Most Likely Descendent who will meet with the applicant in order to come to an agreement about the method of removal and the place of reinternment of ancestral remains.

- A-9. The applicant shall show how the Developer, Community Facilities District or Project Owners Association is responsible for the maintenance of the entire proposed pedestrian trail, all the frontage landscaping and Open Spaces, and all commonly owned or commonly shared facilities within Planning Areas 1, 2 and 3, including, but not limited to, parking lots, private storm drainage, private parking lights, landscaping and plaza areas, prior to the recordation of each final map.
- A-10. The applicant shall be required to post performance bonds for all improvements required by the Planned District, Planned District Major Amendment, Development Agreement, or Tract Map 7458 Conditions the City Engineer requires to be performed in connection with any particular final map.
- A-11. The fees, dedications, reservations and/or other exactions imposed on this project are those stated on the conditions of map approval consistent with the Development Agreement and Applicable Laws.
- A-12. A minimum main building setback of 60 feet, and a minimum setback of 75 feet for mechanical equipment, shall be required for any building on Lots 22 and 23 that abuts the Brandin Court Industrial Area.
- A-13. All Conceptual Site Plans, Preliminary Development Organization Review Application Plans, improvement plans, final maps and building plans are subject to review and approval by Public Safety (Police Fire, Building & Safety) and the imposition of any conditions (e.g. building setbacks, HVAC locations, emergency plans) deemed necessary by them to respond to any health and safety issues, including those presented by off-site uses nearby the site plan or building plan area.
- A-14. Prior to submittal of the first final map for each of Planning Areas 1, 2 or 3, the City Engineer shall identify all the improvements necessary to serve and access the lots which must be constructed as a condition of approval.
- A-15. Prior to the approval of the final map for Planning Area 1, the applicant shall submit an REA or CC&R's for Planning Area 1, or an amendment to the existing Pacific Commons CC&R's, that shall require that any remodel, renovation or rehabilitation of any buildings or structures within Planning Area 1 is done in a manner that is harmonious and consistent with the architecture and development throughout the Planning Area.
- A-16. Developer shall dedicate the right-of-way and install complete street improvements along Boscell Road, from Automall Parkway to Bunche Drive, with the first final map for lots 1 through 7, 9 through 11, or lots 33, 35, 37 or 39. These street improvements shall be completed per the Street Rights-of-Way and Improvement Ordinance of the City of Fremont.
- A-17. The applicant is required to provide a cash payment to the City of Fremont for imaging the recorded final map(s) and "Record" improvement plans. The applicant is also required by ordinance to provide the City with a mylar copy of the recorded final map(s) subsequent to its recordation, and to provide a mylar copy of the "Record" improvement plans prior to acceptance of the improvements by City Council.

A-18. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.

A-19. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.

A-20. SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of tentative tract map approval. Any fee, dedication, reservation or other exaction is deemed imposed on the date of this tentative tract map approval (9/11/03). The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date they are imposed. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions. Nothing herein waives or modifies any of Developer's rights or benefits under the Development Agreement.

If, subsequent to approval of this tentative tract map by the City, significant or material information is found to have been omitted or erroneously described or represented on Vesting Tentative Map 7458 or the other materials contained in Exhibit "S," the omission or error shall be corrected before recordation of a Final Map for the area affected by the omission or error.

Land Use Issues

B-1. Land uses shall conform to those allowed by the approved Planned District and Planned District Major Amendment for this project. Future proposed development shall implement and be consistent with mitigation measures required by this vesting tentative tract map.

B-2. Minor amendments to the Vesting Tentative Tract Map 7458 may be approved by the Assistant City Manager. Minor amendments may be referred to the Planning Commission if he or she determines that the minor amendment will result in sufficient change in the project which would be appropriate for the Planning Commission to review. Major Amendments require Planning Commission approval. For purposes of this condition, Major Amendments are defined as those that would result in a material departure from the project as initially contemplated and approved, such as, materially changing the overall permitted density and intensity of use, proposing less than three story buildings along Pacific Commons Boulevard south of Curie Street, the deletion of planned plazas and other open spaces along Pacific Commons Boulevard south of Curie Street, materially increasing overall peak hour-traffic generation, or materially reducing overall public dedication of lands. Minor amendments are those that would not materially change the map as a major amendment would. For minor amendments, the approving entity shall not impose additional exactions or conditions of approval or apply New City Laws (as defined in the Development Agreement), it otherwise could not apply to planned district under the Development Agreement during the period it is in effect.

Vegetation and Wildlife

C-1. * The Developer shall comply with the requirements of the following Resources Agencies permits and approvals as determined by those agencies:

- The U.S. Army Corps of Engineers Permit Number 220851S issued September 7, 1999;
- The Biological Opinion prepared by the U. S. Fish and Wildlife Service's Sacramento Field Office dated May 14, 1999 and entitled "Formal Endangered Species Consultation on the Proposed Pacific Commons Project, Fremont, Alameda County, California (Number 1-1-99-F-0004)";

- Order Number 99-061 of the California Regional Water Quality Control Board San Francisco Bay Region dated July 23, 1999 and entitled "Waste Discharge Requirements For: Catellus Land Development Corporation and the City of Fremont Pacific Commons Site, Fremont, Alameda County";
- The Mitigation Agreement dated August 8, 1997, and the Amendment to Mitigation Agreement, Pacific Commons Project in Fremont, California between Developer and the California Department of Fish and Game dated January 20, 1999; and
- The Mitigation Monitoring Report.
If reasonably deemed necessary by the City Engineer to address material changes arising out of the Planned District Major Amendment (PLN 2003-00166), the Mitigation Monitoring Report shall be revised or supplemented and submitted to the City Manager or City Manager's designee for approval prior to the approval of the first final map for Vesting Tentative Tract 7458.

C-2. Prior to granting a grading permit, the City Manager or City Manager's designee shall determine that the following studies have been completed and their recommendations implemented:

A survey for the northern harrier nesting sites shall be performed by a qualified biologist during the breeding season (June through July) prior to any grading or other ground disturbing activities during those months. If nesting sites are found, they shall not be disturbed during the breeding season and protective measures shall be developed by the biologist and approved by the City Manager or City Manager's designee. A mitigation plan prepared by the biologist and approved by the City shall be developed for those nesting sites that will be disturbed by the project construction after the breeding season. This Mitigation Plan may be incorporated into the wetland mitigation plan required for the project. The mitigation plan shall at a minimum create the same number of nesting sites that are disturbed by the project construction.

In the alternative, a survey of the entire project site prior to grading during the breeding season shall be performed by a qualified biologist. If northern harrier nesting places are found, and avoidance is not practicable, the extent of impacts to the project site shall be assessed and a comprehensive mitigation plan including minimum standards for northern harrier preservation shall be developed by a qualified biologist and approved by the City.

C-3. * Surveys of burrowing owls in accordance with survey protocols contained in the Staff Report on Burrowing Owl Mitigation, CDFG, September 25, 1995, shall be performed by a qualified biologist prior to commencement of any construction activities in areas of burrowing owl observances and in areas with mounds, berms or other suitable ground-nesting locations. No more than 30 days prior to the commencement of any grading, diskings, testing or construction of buildings on the project site, a site investigation, subject to the approval of the Development Organization, shall be completed in each phase by a qualified wildlife biologist to determine if burrowing owls are present on the project site. If a determination is made that burrowing owls are found to nest on the site, all work that would destroy such nests shall halt until the wildlife biologist has recommended appropriate actions to be taken to protect the owls and relocate the nesting sites at the appropriate time, if determined to be appropriate. Relocation of the owls shall be completed in accordance with the biologist's recommendations and any applicable State laws.

Traffic/Circulation Issues

- D-1. Right-of-way dedication and installation of public improvements may be done in phases subject to the review and approval of the City Engineer. All rights-of-way and improvements, including new traffic signals, within the boundaries of each phase of the development shall be required with the final map for that phase. In addition, the City Engineer may require the developer to install any offsite improvements required by Tract Map 7458 Conditions or other Approvals, and dedicate right-of-way required by the Tract Map 7458 Conditions or other Approvals, to provide necessary access and circulation to the phase proposed for development.
- D-2. The developer shall dedicate all the required rights-of-way and install all the necessary street improvements as shown in the various cross-sections indicated on the Vesting Tentative Tract Map 7458. The developers shall install all the offsite street improvements as indicated on Vesting Tentative Tract Map 7458.

- D-3. The developer shall dedicate the "Pedestrian/Public Access and Trail Easement" as shown on the Vesting Tentative Tract Map 7458. The final location of the 20-foot and 30-foot wide segments of the easements shall be established with each final map abutting a segment of the easement subject to the review and approval by the City Engineer.
- D-4. Prior to the first final map or building permit for each sub-area identified in Planned District Conditions 31-32 or Planning Area 1, 2, 3 or any lot within Planning Area 4, Developer shall submit an internal circulation analysis and plan, and street geometrics for the sub-area or Planning Area. The analysis shall utilize, as necessary, estimated project densities over any undeveloped sub-areas or Planning Areas of the site, actual densities over developed portions of the site and proposed densities for the sub-area or Planning Area being considered. The analysis shall identify, as necessary, estimated traffic volumes on all internal streets and evaluate intersection/driveway spacing, travel lane requirements, left turn lane requirements, and queue lengths as necessary in order to verify design. The plan shall show the connection of the internal streets in the sub-area or Planning Area to the major streets providing access to the development. Any major revision to the approved alignment of the major internal streets (i.e. Christy Street, Boscell Road, Cushing Parkway and Pacific Commons Boulevard) shall be referred to the Planning Commission and City Council.
- D-5. City Engineer may approve revised final roadway sections for the portion of Pacific Commons Boulevard running through the Retail District than those shown on Vesting Tentative Tract Map 7458 if not inconsistent with the recommendations of the circulation analysis required by condition D-4 of this approval, providing that such changes are consistent with the intent of the Circulation and Parking Guidelines established in the Development Standards and Guidelines for this project.
- D-6. The street names on the Vesting Tentative Tract Map 7458 are subject to modification prior to final map approval. If needed, the developer shall work with staff to provide different street names, subject to review and approval of the Fremont Fire Department and City Engineer.
- D-7. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
- D-8. Ingress and egress easements, emergency vehicle access easement (E.V.A.E.), private storm drainage easements, private water line easements, private sanitary sewer easements, and joint use parking easements will be required as, and to the extent needed, between lots. The easement geometry shall be subject to the approval of the City Engineer.
- D-9. A landscape plan shall be submitted with the improvement plans for each site proposed for development indicating full details regarding (1) paving materials and textures of walkways, (2) lighting of walkways and driveways with low intensity nonglare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and parkway areas.
- D-10. Prior to the approval of the first final map for each sub-area identified in Planned District Conditions 31-32 or Planning Areas 1, 2, 3 or 4, the applicant shall submit the master utility plans for the water and sewer system for the area shown on VTTM 7458 for review and acceptance by the Alameda County Water District and Union Sanitary District, respectively.
- D-11. The Developer shall provide bus stops and bus shelters, subject to the approval of the City Engineer and consistent with the Transportation Demand Management plan.
- D-12. Any additional traffic signals required by the Tract Map 7458 Conditions or other Approvals beyond the four receiving TIF credits as noted in the PLN 2000-214 approvals, will be the responsibility of the Developer.

Soil, Geology, Grading Issues

- E-1. * The applicant/developer shall submit a detailed soils report for each phase including recommendations regarding structural sections, prepared by a qualified soils engineer registered by the State of California. This information shall be reviewed and accepted by the City Engineer prior to the acceptance of the first Final Map for such phase. The recommendations of those soil reports shall be incorporated into the project phases subject to the approval of the City Engineer.
- E-2. * The applicant/developer shall adhere to the recommendations of the soils report to mitigate the potential effects of any expansive soils on the site.
- E-3. * Prior to demolition, excavation and grading of each phase of the project, all underground obstructions (i.e., debris, septic tanks, fuel tanks, barrels, chemical waste) within that phase shall be identified and removed pursuant to Federal, State and local regulations, pursuant to the review and approval of the City's Hazardous Materials Division. Excavations shall then be properly backfilled using structural fill, subject to the review and approval of the City Engineer.
- E-4. The applicant/developer shall be responsible for providing slope easements from adjacent properties for all roadways stubbed to the tract boundary, in the event that the applicant/developer cannot obtain the necessary easements, cash in-lieu of construction for uncompleted improvements will be an acceptable alternative, subject to the approval of the City Engineer. All cash deposits shall include an escalation factor of 7 percent per year for five years.
- E-5. Prior to the commencement of any site work, the applicant shall show proof of evidence a Notice of Intent has been submitted to the State in compliance with the State of California Water Resources Control Board order No. 92-08-DWQ and National Pollution Discharge Elimination System Permit No. CAS00D002.
- E-6. Grading operations for roadways and on-site building pads shall be supervised by a registered civil engineer in accordance with recommendation contained in the approved soils report for this project site.
- E-7. Developer shall comply with the requirements of the Seismic Hazard Mapping Act for properties within the Seismic Hazard Zone (liquefaction or earthquake induced landslides) on the State Seismic Hazard Zone Maps.

Drainage and Stormwater Quality Issues

- F-1. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for the operation and maintenance of the project.
- F-2. The developer/applicant shall include storm quality measures in the storm drainage design for the development, in accordance with the City's storm water runoff quality requirements and the Post-development BMP Program for Pacific Commons. The final, project-specific Stormwater Management Plan (SWMP) shall be submitted to the Executive Officer of the California Regional Water Quality Control Board (RWQCB), no later than 30 days prior to fine grading for each project, or commencement of further construction on each site after mass grading, if no fine grading is required for a particular project for approval.
- F-3. The developer/applicant shall receive approval by the RWQCB of the applicant's Storm Water Pollution Prevention Plan prior to the commencement of construction for each site.
- F-4. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.

- F-5. Prior to the approval of any final map or building permit within the development, the applicant shall have obtained the approval of a hydrology study and master drainage plan for the applicable lot or lots, including phasing, from the Alameda County Flood Control District and the City.
- F-6. The developer shall submit for review and approval the hydrology study and the master drainage plan for the main line storm drainage system within Tract 7458 to Alameda County Flood Control District and the City.
- F-7. Site grading and drainage is subject to the approval of the Development Organization Engineer at the time of building permit issuance. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
- F-8. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grate elevations are to be a minimum of 0.75 feet above the hydraulic grade line.
- F-9. All trash and recycling areas are to be completely covered. No other areas shall drain to the enclosed area. Drains in any wash area or process area shall not discharge to the storm drain. Drainage from all dumpsters handling wet wastes (specifically restaurants and similar businesses) will be directed to the sanitary sewer subject to approval of the Union Sanitary District. Interior mat/equipment wash racks for restaurants and food preparation areas shall be designed to drain to the sanitary sewer system.
- F-10. Landscaping shall be designed with an efficient irrigation system to reduce runoff and promote surface filtration and to minimize the use of fertilizers, herbicides and pesticides which can contribute to urban runoff pollution.
- F-11. All washing/steam cleaning must be done at an appropriately equipped facility which drains to the sanitary sewer. Outdoor washing must be managed in such a way that there is no discharge of soaps, solvents, cleaning agents, or other pollutants to the storm drains. Wash water should discharge to the sanitary sewer subject to review and approval of the Union Sanitary District.
- F-12. Developer at time of initial sale of individual parcels shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharges practices, etc. The City will furnish information materials. Contact the Engineering Division at (510) 494-4700.
- F-13. Outdoor storage areas are to be designed to minimize the runoff of pollutants.
- F-14. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
- F-15. If a parking structure is included in an individual project, all levels of the structure except for the topmost shall drain into a sanitary sewer line, subject to the approval of the Union Sanitary District. To the maximum extent practicable, the roof/upper deck drainage systems shall daylight at the ground surface into a bioswales or other acceptable treatment control BMP.

Public Utilities

- G-1. Final plans for each phase of the wastewater system extensions shall be approved by the Union Sanitary District prior to the approval of each final map.
- G-2. Final plans for the water distribution system for each phase shall be approved by the Alameda County Water District and the City of Fremont Fire Department prior to the approval of each final map.

- G-3. Prior to the issuance of any permit for vertical construction or locating on-site combustible storage, the applicant shall provide an all-weather surface road for emergency vehicle access within 150 feet of all construction or combustible storage and provide an uninterrupted water supply with a minimum of one hydrant capable of flowing 1750 gpm.
- G-4. Fire hydrants are to be located along the public streets and on-site as determined by the Fremont Fire Department.
- G-5. The applicant shall underground all overhead utility lines in accordance with the City's amended underground ordinance, with the exception of the lines along Auto Mall Parkway which the applicant shall have no obligation to underground.
- G-6. All new utility service connections, including electrical and communications, shall be installed underground.
- G-7. * The existing wells on the site shall be abandoned for each phase in accordance with Alameda County Water District regulations. The applicant shall provide funding for all well abandonments. The applicant/developer shall provide evidence of the removal and/or capping of all wells on the project site prior to the approval of each final map for this project.
- G-8. * The developer shall install water lines for recycled water for future use as and to the extent required by the Alameda County Water District if recycled water should become feasible, subject to the approval of the Alameda County Water District.
- G-9. The existing PG&E Poleline Easement shall be abandoned, or a quitclaim or other consent from PG&E shall be obtained, prior to issuance of a building permit for lots 18 through 23 of VTTM 7458.

Relationship with Development Agreement Issues

- H-1. Pursuant to the state Subdivision Map Act, this VTTM will be implemented through multiple final maps. This VTTM confers a vested right to the developer and its successors in interest to proceed with development of the Project and the Project Site in substantial compliance with this VTTM approval, its conditions and exhibits, and the following ordinances, policies and standards in the following circumstances:
 - (a) So long as the Development Agreement remains in effect, the ordinances, policies and standards described in Section 3.2 of the Development Agreement as constituting the Applicable Law.
 - (b) If the Development Agreement is terminated due to a developer default, the ordinances, policies and standards in effect on the Effective Date of the Development Agreement; provided, however, that to the extent there is any inconsistency between the terms of the VTTM approval, its conditions and exhibits, and the ordinances, policies and standards in effect on the Effective Date of the Development Agreement, the terms of the VTTM approval, its conditions and exhibits shall control.
 - (c) If the Development Agreement is terminated due solely to a City default, the ordinances, policies and standards in effect on the date that the application for the 1996 Vesting Tentative Tract Map was deemed complete.
- H-2. Subject to condition H-5 herein, the vested rights conferred by this VTTM approval shall last for the longer of:
 - (a) The life of the Development Agreement.
 - (b) The collective total of the life of: the VTTM, any final map approved as a result of the VTTM, any building permits and their extensions related to construction of buildings on parcels shown on a final map approved as a result of this VTTM, and any other extension provided by local or state law.
 - (c) If the Development Agreement is terminated due to a default by the developer, the vested rights set forth in this Section shall last only for the period described in subsection (b) herein, not subsection (a).

- H-3. The City shall grant developer or its successor any and all VTTM extensions, final map extensions and building permit extensions allowed by the Fremont Municipal Code. However, notwithstanding the foregoing, the City may condition or deny an extension request if it determines that (a) failure to do so would place the occupants of the Project Site or the immediate community, or both, in a condition dangerous to their health and safety; or (b) the condition or denial is required in order to comply with state or federal law.
- H-4. In the event the Development Agreement is terminated due to developer default, the following additional conditions and requirements will automatically become effective:
- a. The Developer shall be subject to the same terms with respect to the imposition of Impact Fees as described in paragraph 3.2(g) of Article 3 of the Development Agreement, as if the Development Agreement had not been terminated and remained in full force and effect. In the event of termination due to developer default, the provisions to Article 3, paragraph 3.2(g) of the Development Agreement are hereby incorporated by reference in this condition.

END OF CONDITIONS

EXHIBIT "U"
Findings and Conditions of Approval for PLN2003-00298
Preliminary Grading Plan

FINDINGS:

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated September 11, 2003, incorporated herein.

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones on the site, which might be aggravated by the grading of the development. A soil study will be conducted and submitted to the City prior to recordation of each Final Map.
3. The proposed project described in the application will not endanger public sewers, storm drains, water courses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project will be subject to the review and approval of the City and the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed except as provided for in the approved plans. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of each Final Map. The City Engineer upon City review of the reports may require supplemental data and substantiation of conclusions. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

CONDITIONS:

1. Conformance with Exhibit "S", Preliminary Grading Plan, and all the conditions of approval of Tentative Tract Map 7458, Pacific Commons Major Amendment (PLN2003-00166), and all other approvals of P-2000-214.
2. Approval of this Preliminary Grading Plan does not extend to the final detailed construction design. A Grading Permit application shall be submitted to the City, subject to the review and approval by the City Engineer.
3. The final grading plan may be completed in phases, subject to the review and approval by the City Engineer. The final grading within the boundaries of each phase of the development shall be required with the final map for that phase. In addition, the City Engineer may require the developer to perform any offsite grading in order to make the grading work conform to the adjacent grade outside of the phase proposed for development.
5. All the proposed work on the flood control Channel N-1, if any, shall be subject to the approval and shall comply with the standards of the Alameda County Flood Control District.
6. The applicant should provide measures to prevent the discharge of sediments and/or untreated water, and

contaminated materials directly into the District Line N-1 drainage facility. It is the responsibility of the applicant to comply with Federal, State, or local water quality standards and regulations.

7. Prior to the approval of the first final map or building permit the applicant shall perform an analysis to determine if the soil on the site has the potential for causing corrosion and the need for any special design and grading requirements to mitigate the corrosion if necessary.
8. Grading operations shall be supervised by an engineer registered in the State of California to do such work. City staff will assume inspection responsibility for street grading at a point six inches below planned subgrade.
9. The applicant shall provide for a functional system to control erosion and siltation during and after completion of the preliminary grading work for each phase. A separate plan shall be submitted by the applicant for this purpose and prior to the issuance of the grading permit for the phase proposed for development and shall be subject to the review and approval by the City Engineer and the Alameda County Flood Control District. All erosion control measures shall be in place by October 1, of each construction season.
10. The applicant shall provide adequate dust control measures at all times during the grading and hauling operations. All trucks hauling export and import materials shall be provided with tarp cover at all times. Spillage of haul materials and mud-tracking on the haul routes shall be prevented at all times. Any violation shall be subject to the suspension of the grading permit.
11. The disposal site for off-site haul dirt materials and source for the import fill shall be approved by the City Engineer prior to the issuance of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
12. Construction operations shall be limited to the following hours:

7:00 a.m. to 7:00 p.m. – Monday through Friday
9:00 a.m. to 6:00 p.m. – Saturday and Sunday
13. Prior to issuance of a grading permit for land disturbance greater than one acre, developer shall provide evidence that a Notice of Intent (NOI) has been submitted in compliance with the State of California Water Resources Control Board Order No. 92-08-DWQ, NPDES permit No. CAS000002.
14. Approval of this preliminary grading plan shall not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
15. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed except by specific approval.
16. The applicant shall be required to provide post-construction control methods and improve water quality, which may include onsite grassy swales, and/or other treatment measures in accordance with the "Interim Stormwater Management Plan for the Pacific Commons Business Park" dated March 2001. The design and implementation of such measures are subject to the approval of the State Regional Water Quality Control Board (SRWQCB) and the City of Fremont. The design of these facilities shall be included in the improvement plans submitted to the City and SRWQCB prior to final map approval within each phase of the development. Final details will be required in conjunction with onsite grading and drainage plans.
17. The approval of the preliminary grading plan shall run concurrent with the approved Tentative Tract Map 7458 as provided in Condition H-2 of the VTTM.
18. The applicant may be allowed grading deviation in pad grades and street grades up to a maximum of two feet (plus or minus) between the preliminary grading plan and the final grading plan for each lot. Deviation over one foot may be

referred to the Planning Commission subject to the review of the City Engineer. The City Engineer may approve minor deviations beyond two feet when they relate to grassy swales or treatment ponds.

19. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
20. The developer/applicant shall receive approval by the RWQCB of the applicant's Storm Water Pollution Prevention Plan prior to the issuance of any grading permit.
21. All cut and fill slopes shall be constructed to a maximum of three horizontal to one vertical (3:1).
22. The minimum drainage slope in swales shall be 1%.
23. The developer shall demonstrate, by providing structural calculations by a licensed engineer, that the existing block wall on the western property line of Planning Area 4 can function as a retaining wall, otherwise the developer shall replace the block wall with a new wall or build a retaining wall next to the block wall when performing the grading for any of lots 3, 4, 5 or 6 of VTTM 7458.
24. All public and private storm drain inlets are to be stenciled "No Dumping-Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, Calif. Color and type of paint to be as approved by the City Engineer.
25. Prior to the issuance of any building permits for structures within the project site, the applicant/developer shall submit "record drawings" showing final grades for the rough grading work on any approved lot or lots.
26. All retaining walls shall be limited to a maximum height of 3 feet. All retaining walls over one foot in height or supporting surcharge shall be approved masonry construction. All retaining walls over three feet or supporting a surcharge shall be subject to a building permit.
27. Individual lots shall be provided with a separate underground storm drain system unless appropriate rights/easements are provided per the City of Fremont standards and policies. No overland flow shall be allowed to flow onto the public roadway, except consistent with these standards and policies.
28. The applicant/developer shall provide a detailed soils report for each phase of grading, as necessary, to be determined by the City Engineer.
29. The Project Geotechnical Engineer shall be retained to review the final foundation and earthwork plans and specifications. The Project Geotechnical Engineer shall approve the Improvement Plans prior to City approval of the final map.
30. Developer shall comply with the requirements of the Seismic Hazard Mapping Act for properties within the Seismic Hazard Zone (liquefaction or earthquake induced landslides) on the State Seismic Hazard Zone Maps.
31. Prior to demolition, excavation and grading of each phase of the project, all underground obstruction (i.e., debris, septic tanks, fuel tanks, barrels, chemical waste) within that phase shall be identified and removed pursuant to Federal, State and local regulations and subject to the review and approval by the City's Hazardous Materials Division. Excavations shall be properly backfilled using structural fill, subject to the review and approval of the City Engineer.
32. The applicant shall obtain a final grading permit in conjunction with each final map. All final grading work shall be subject to the review and approval by the City Engineer.
33. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grate elevations are to

be a minimum of 0.75 feet above the hydraulic grade line.

34. The developer of any phase shall be responsible for providing slope easements from adjacent properties for streets stubbed to the phasing boundary.
35. Outdoor storage areas are to be designed to minimize the runoff of pollutants.
36. The applicant shall consult with the Fremont Fire and Police Departments to determine appropriate access to the site for emergency response prior to the commencement of grading activities.
37. The final grading plans are required to be prepared, signed and stamped by a California-licensed Civil Engineer.
38. The developer/applicant may submit grading plans for the rough grading of pads and streets prior to the approval of the Street Improvement Plans and building permit, subject to approval by the City Engineer. A grading agreement and bond will be required for the grading plan to restore the area to its original condition if the submittal of a building permit does not follow within twelve (12) months.

END OF CONDITIONS

Exhibit "V"
Construction Water Quality and Protection Plan Provisions

The developer shall prepare a Construction Water Quality and Protection Plan to be implemented for all construction contracts, subject to approval of the City Engineer and the Regional Water Quality Control Board. The Plan shall include requiring:

- Performing major vehicle maintenance, repair jobs and equipment washing off-site;
- Maintaining all construction vehicles and heavy equipment and inspecting frequently for leaks;
- Designating one area of the construction site, well away from any streams, wetland restoration area and storm drain inlets, for equipment parking and routine equipment and vehicle maintenance;
- Cleaning up spilled dry materials immediately, not washing them away or burying them;
- Minimizing water use for dust control;
- Cleaning up liquid spills on paved and impervious surfaces using "dry" clean up methods (i.e., absorbent materials such as, cat litter, rags);
- Cleaning up spills on dirt areas by removing and properly disposing of contaminated soils;
- Reporting significant spills to the appropriate spill response agencies;
- Storing stockpiled materials, wastes, containers and dumpsters under a temporary roof or secured plastic sheeting;
- Properly storing containers of paints, chemicals, solvents and other hazardous materials in water tight garages or sheds with double containment during rainy periods;
- Placing dumpsters under roofs or covering them with plastic sheeting at the end of each work day and during rainy weather;
- Washing out concrete mixer only in designated wash-out areas where the water will flow into settling ponds or onto stockpiles for aggregate base or sand. Whenever possible, recycling washout by pumping back into mixers for reuse. Prohibiting disposing of washout into streets, storm drains, drainage ditches or streams or wetland areas;
- Applying concrete, asphalt and seal coat during dry weather. Keeping contaminants from fresh concrete and asphalt out of the storm drains and streams and wetland areas by scheduling paving jobs during periods of dry weather, allowing new pavement to cure before storm water flows across it;
- Covering catch basins and manholes when applying seal coat, slurry seal, fog seal, etc.;
- Parking paving machines over drip pans or absorbent materials, since they tend to drip continuously.
- Construction workers shall be educated regarding appropriate management practices to prevent erosion or drainage from construction areas from impacting the Wetland Preserve or off-site areas.